

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.7600 OF 1997

PRINCIPAL, RUKHMANI DEVI RUNGTA VIDYALAY, BHARUCH & ANR
VERSUS
DISTRICT EDUCATION OFFICER & ANR.

Appearance:

MR SHIRISH JOSHI for Petitioners

MS HARSHA DEVANI for Respondent No.1

None present for Respondent No.2

CORAM: MR.JUSTICE S.K.KESHOTE

Date of Order: 23/01/1998

C.A.V. ORDER

Challenge has been made by petitioners, by this Special Civil Application, to the order of the Gujarat Secondary Education Tribunal at Ahmedabad, dated 22nd September 1997, passed in Applications No.253 of 1997 and 313 of 1997, whereunder the management, the petitioners herein were directed to restore the respondent No.2-teacher to active duties.

2. The facts of the case, in brief, are that the petitioner No.1 is a secondary school which is being run by petitioner No.2, a registered public Trust registered under the provisions of the Bombay Public Trusts Act. Against the respondent No.2, the petitioner initiated departmental enquiry on the charges levelled against her, as contained in the chargesheet. Looking to the seriousness of charges and especially the behaviour of the respondent No.2 against the Principal of the school as well as other colleagues as also the students, she was placed under suspension vide order dated 13th June 1997. The petitioners made application to the respondent No.1, District Education Officer, for ratification of their action suspending the respondent No.2 pending departmental enquiry. The respondent No.2, even before the filing of the application by the petitioners aforesaid, filed Application No.253 of 1997 before the Tribunal. In that application, prayer has also been made for grant of interim relief against the suspension but the Tribunal did not grant interim relief in favour of respondent No.2. The application filed by petitioners

for ratification of their action to place respondent No.2 under suspension was rejected by respondent No.1 under its order dated 29.7.97. That order has been challenged by petitioners by filing Application No.313 of 1997 before the Tribunal and therein prayer has been made for grant of interim relief. The prayer made by petitioners for grant of interim relief came to be rejected by the Tribunal under its order dated 22nd September 1997. However, the Tribunal directed the petitioners to restore the respondent No.2 to active duties. Hence this Special Civil Application.

3. This petition has come up for admission before this Court on 28th November 1997, on which date this Court has ordered;

"Notice to the respondents returnable on 19th December 1997. Mr.Joshi, ld. advocate appearing for petitioner agrees that the respondent No.2 shall be paid her salary every month regularly. Ad-interim order in terms of para 11(c). Direct service is permitted."

4. Though the respondent No.2 has been served, nobody is present on her behalf before this Court to oppose this Special Civil Application. The prayer made by petitioners in para 11(c) reads as under:

"Pending admission, hearing and final disposal of this petition, be pleased to stay and operation, execution, implementation and enforcement of the orders of District Education Officer dated 29th July 1997 and of the Gujarat Education Tribunal dated 22nd September 1997"

5. The learned counsel for the petitioners made a statement before this Court that the applications filed by both, the petitioners and respondent No.2, are pending before the Tribunal for final disposal and till those petitions are finally decided, interim relief which has been granted by this Court may be continued and it will not adversely affect the respondent No.2. The respondent No.2 will get the salary without working on the post and the petitioners will pay that salary from their own pocket and it will not put any burden on the State Government as they will not claim any grant-in-aid for this amount.

6. In view of this statement made by learned counsel for the petitioners, I am satisfied that in case the interim relief in terms as granted by this Court in this Special Civil Application is continued till the disposal

of the applications of both, the petitioners and respondent No.2, pending before the Tribunal, the respondent No.2 will not suffer any loss or it will not cause any injury to her. Similarly, the respondent No.1 or the State Government will not suffer any loss as the petitioners will make the payment for this salary to the respondent No.2. The learned counsel for the petitioners further submitted that the enquiry which has been initiated against respondent No.2 has also reached to the final stage and it will also be completed within a short period. So otherwise also, the dispute regarding suspension of respondent No.2 may lose its own force or impact and the parties will have to act according to the final orders passed in the departmental enquiry.

7. Taking into consideration the totality of the facts of this case, this Special Civil Application is disposed of in terms that the interim relief which has been granted by this Court on 28th November, 1997, shall continue till the decision of the applications filed by the petitioner and the respondent No.2 before the Tribunal. However, it is made clear that on completion of enquiry the petitioner is at liberty to approach to the Tribunal for passing of the appropriate orders in the changed circumstances, in the application of the petitioners, as to whether the respondent No.2 should be allowed to continue in services or not. Whatever orders passed by the Tribunal shall be final and in that case the order of this Court continuing interim relief will come to an end automatically and the operative order will be the order is passed by the Tribunal in the applications as aforesaid. Notice stands discharged in aforesaid terms with no order as to costs.

(S.K.Keshote, J)

(sunil)